C.J.'s Court

Writ Petition No. 688(S/B) of 2001

Krishi Utpadan Mandi Samiti, Khatima	…….	Petitioner
	Vs.	
State Public Service Tribunal and others	……	Respondents
	……	

Hon. A. A. Desai, C.J.
Hon. P.C.Verma,J.

The petitioner Krishi Utpadan Mandi Samiti, Khtima has presented the petition challenging the order dated 22.12.1997 passed by the Service Tribunal setting aside the termination of the respondent no.2

The facts leading to the dispute are:

The petitioner, who was working as Chaukidar in Mandi Samiti, was terminated on 4.8.1992 by way of disciplinary action since he was unauthorisedly absent from employment as well as treating him temporary employee.

By the impugned order, the Service Tribunal on 22.12.1997 set aside the termination of the respondent no.2 and directed his reinstatement with back wages. In part compliance of the impugned order, petitioner Mandi Samiti reinstated the respondent no. 2 on 22.03.1998.

Sri J. C. Belwal, learned counsel for the petitioner urged that the impugned order is wholely without justification and his reinstatement with back wages has put heavy burden on the Mandi Samiti as they were required to pay back wages for approximately six years.

We also heard Mr. K. S. Bora, learned counsel appearing for the respondent no.2. During the course of hearing, the parties agreed to adjust the equity. In view of this, learned counsel for the respondent no.2 made a

statement that respondent no.2 is ready to forego 50% of his claim for the period from the date of his termination till the actual date of his reinstatement. To this learned counsel for the employer Mr. J. C. Belwal has also recorded his assent.

In view of the agreement between the parties, we modify the impugned order and direct that the petitioner shall pay 50% back wages as calculated by the learned counsel i.e. Rs. 74,275/-(Rupees Seventy Four Thousand Two Hundred Seventy Five only) after making admissible deductions.

Learned counsel for the respondent no.2 has accepted the payment in our presence. The petitioner has been reinstated on 22.3.1998. The respondent shall not in may manner claim the remaining back wages. He shall continue in service with continuity for the period he was out of employment. He will be entitled to draw emoluments as if he regularly continued in employment and his service shall be computed for all purposes including pensioner benefits, in case if any.

With this the petition is accordingly disposed of.

(P.C.Verma,J.) **(A.A.Desai, C.J.)**

Dt.26.06.2002
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